IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 875 OF 2001

IN

NOTICE OF MOTION NO. 965 OF 1999

IN

SUIT NO. 4026 OF 1998

Sunanda Keshav Bhide & Anr. ... Appellants

(Orig. Plaintiffs)

Versus

M/s. I.T.C. Limited & Ors. ... Respondents

Mr.A.C. Singh with Mr. D.R.Shah for the appellants.

Mr. P.P.Paul i/b. Nanu Hormusjee & Co. for Respondent No.1.

CORAM: D.K.DESHMUKH &

J.H.BHATIA,JJ.

DATE : 29th August, 2007.

P.C.

1. This Appeal is directed against the order dated

2nd August, 2001 passed in Notice of Motion No. 965 of 1999 by a learned Single Judge of this Court declining any order of temporary injunction to the appellants-plaintiffs.

2. The plaintiffs have filed the suit claiming a decree of declaration that they are the legal and bonafide owners of the shares, the numbers of which are mentioned in prayer clause (a) of the plaint. They have also claimed a direction to the defendant No.1 to issue duplicate share certificates of 500 shares of the defendant No.1 Company. The case of the plaintiffs is that they purchased 700 shares on the Stock Exchange through Brokers. The plaintiffs sent share certificates of 700 shares of the Company for transfer along with duly signed transfer form, but the packet was lost in transit. The defendant No.1 issued duplicate share certificates for 200 shares. Therefore, they have filed the suit for 500 shares. The shares to which the suit relate are shares of I.T.C. Limited. The shares are freely available in the market. Therefore, ultimately, if the plaintiffs succeed in proving their case, a direction can be issued by the Court to the defendants to buy the shares from the market and hand them over to the plaintiffs or the plaintiffs can also be given money equivalent of the shares along with accruals. Thus, there is no question of the plaintiffs suffering any

irreparable injury if the interim injunction is not granted.

3. In this view of the matter, therefore, we find no reason to interfere with the order impugned in the Appeal.

The Appeal is disposed of.

4. In view of the order passed in the Appeal, the Notice of Motion No.2474 of 2001 is disposed of as infructuous.

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(D.K.DESHMUKH,J)

(J.H.BHATIA,J.)